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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

SAMSON TUG AND BARGE CO., INC., an)	Civil No. A03-006 CV
Alaska Corporation)	
)	IN ADMIRALTY
Plaintiff/Appellant)	
)	
v.)	
)	STATEMENT BY
UNITED STATES OF AMERICA,)	<u>DEFENDANT, USA</u>
)	
acting by and through)	
)	
the UNITED STATES DEPARTMENT of the)	
NAVY MILITARY SEALIFT COMMAND, and)	
UNITED STATES DEPARTMENT OF THE)	
ARMY MILITARY TRAFFIC MANAGEMENT)	
COMMAND)	

Defendants/Appellees)
)

Pursuant to this court's order, defendant, United States of America, does hereby submit a statement on its own behalf regarding trial setting and related matters. Late today counsel for the United States first learned plaintiff would be submitting a statement on its own behalf and abandoning efforts to file a joint certification as to the readiness of the case for trial, despite Government counsel's ongoing efforts over the last two weeks to stay in contact with plaintiff's attorneys and reach agreement on a simple statement addressing those items upon which a report was requested by the Court, sans posturing by either party.

The statement of the United States follows:

1(a). The United States believed that discovery was complete (except for the possible need by both parties to conduct preservation depositions, depending on the trial date chosen), and that the case was ready to be set for trial until plaintiff insisted on inserting in the proposed joint statement that prior written discovery might need supplementing, and that it might bring a motion to exclude some Government witness(es) who were allegedly requested but never produced.. From these statements it would appear that plaintiff does not actually believe discovery has been concluded.

1(b). Apparently neither party anticipates making dispositive motions at this time, but both expect that motions in limine are likely following pretrial disclosures in order to exclude and/or limit certain testimony and/or exhibits, and/or to limit certain issues, as then deemed appropriate.

1(c). The United States has been willing to participate in a non-binding mediation for several years, but the parties have not reached accord on an appropriate mediator, nor on the location or other circumstances for the session. Mediators suggested by the United States have been rejected, as have ones proposed by plaintiff. No new names have been circulated by plaintiff for many months, although repeatedly requested by Government counsel in her conversations with the various attorneys representing plaintiff. Recently, although Government counsel agreed to do the mediation

1 anywhere on the west coast of the United States, or in Alaska or even Hawaii, plaintiff insisted on
2 conducting it in Washington, D.C.. The case is filed in Alaska, plaintiff has Alaska-based counsel
3 and many of its witnesses reside in Alaska, Government counsel is based in San Francisco,
4 California, both sides' experts and many witnesses are in other locations on the west coast, and most
5 of the discovery has been conducted in Seattle, Washington. The only significant relation to the east
6 coast is the fact that some of the attorneys plaintiff has chosen to have represent it are based there.

7 The United States remains willing to do a mediation under appropriate circumstances, before
8 an acceptable neutral, and in a convenient location; and/or to be set for a settlement conference
9 before another Judge or Magistrate of the District in this bench trial. Of course, the United States
10 would prefer not doing either so during trial preparation..

11 2. The United States estimates that trial to the Court could take 6 to 8 Court days. It
12 appears the parties are in agreement that trial could be scheduled anytime between September 8 and
13 October 3, 2008, or from May 28 to June 6, 2008. Government counsel is concerned, however, that
14 a May trial date is now too near on the horizon if both a mediation and possibly thereafter a
15 settlement conference are to take place before pretrial preparations are underway; also, her own
16 calendar conflicts are not insignificant at this point in both February and March; and the
17 Government's expert has been scheduled to be out of the country for most of March, as plaintiff's
18 counsel has been informed. In addition., Government counsel has pre-existing conflicts should a
19 trial convened in late May in this case run past June 6th for any reason

20 Due to the evident differences between the statements submitted on behalf of the parties,
21 the United States suggests a telephonic status conference with the Court might be beneficial at this
22 point. ///

23 ///

24 ///

25 ///

1 Dated: 1/2/08

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7
8 /s/ Jeanne M. Franken

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 2, 2008, a copy of the foregoing Statement of Defendant, United States of America, was served electronically on:

Richard D. Gluck, Esq.
Garvey Schubert Barer

William G. Royce, Esq.
Law Office of William G. Royce

Attorneys for Plaintiff/Appellant
Samson Tug and Barge Company, Inc.

/s/ Jeanne M. Fanken

Jeanne M. Franken